

**WEST TISBURY ZONING BOARD  
MINUTES OCTOBER 4, 2006  
TOWN HALL 7 PM**

**PRESENT:** Eric Whitman (Chair), Bob Schwier, Nancy Cole, Tony Higgins, Larry Schubert

**ABSENT:** Toni Cohen, Tucker Hubbell

**ALSO PRESENT for All or Part of the Meeting:** Bill Skinner, Ivory Littlefield, Jim Costello, Marty Wirtz, Judy Fisher, Troy and Laurie Maciel, Pamela Spier, Beth Carr, JC Murphy, Geoff White

**BUSINESS**

- Minutes of September 27 will be reviewed on Oct 18.
- Review and approval of Skydell written decision
- Robert Skydell and Rose Willett's letter to ZBA of October 4 was read. ZBA felt that the written decision would answer their query.

**HEARINGS**

**7:20 PM An application by Ivory Littlefield on behalf of Foster Greene for a Special Permit** to extend and alter a pre-existing, non-conforming (by setbacks) house: 12' by 23' year round porch on west side; deck extensions; enclosed storage area on NE corner of deck; and a bulkhead. Section 11.1-3 of Zoning Bylaws. Map 26, Lot 12.8; 24 Alex Way; RU District. *Correspondence: 1) Foster C Greene Jr.; 2) William L Skinner for Nat's Farm Landowners Association; 3) Abutters Jane and Paul Langmuir; All in Favor*

*On file in Zoning Board of Appeals office in Town Hall and available to be read*

Correspondence was read and plans were looked at. Contractor Ivory Littlefield pointed out that the front deck is shown to be an addition on the plan, but is actually an existing one. The house was built in the 80's when setbacks were 40', but it doesn't make this setback. Ivory thought perhaps the building envelopes provided by the Nat's Farm development were used to site houses, not Town setbacks. Mr. Greene's letter explained that the changes are intended to make the house handicap accessible for a family member. There will be extensive interior work done as well. Finding that the work was well planned and not detrimental to the neighborhood, the ZBA voted unanimously to approve the plans and special permit.

**7:40 PM An application by Mary F. Wirtz for a Special Permit** to alter and extend a pre-existing, non-conforming (by setbacks) house by extending a sunroom 2' to the NE and 6'6" to the SE. Section 11.1-3 of Zoning Bylaws. Map 16, Lot 196; 76 Pin Oak Circle; RU District. *No Correspondence*

ZBA looked at the plans; Mary Wirtz explained they have a screened in back porch and they'd like to extend by 2', take some steps and an outdoor shower out and extend the porch over that 6'6" area. The resulting porch would be usable year round and be a nursery for plants. The existing sunroom is 35' from the NE bound and the addition will put it at 33'. Fixing and replacing the porch would be an improvement as the current one is dilapidated. Finding the setback relief to be minimal and the structure to be not detrimental to the community, the ZBA voted unanimously to grant the Special Permit.

**8 PM An application by Troy and Laura Maciel for a Special Permit** to build an attached 1,155 sq ft garage for personal vehicle storage and (cold weather) pumper truck and snowplow truck storage, with overhead office space and family room; and to have a service business Special Permit for this storage and occasional maintenance. Sections 11.2-2, 8.5-1 and 8.5-2 of West Tisbury Zoning Bylaws.

Map 10, Lot 58; 30 Pine Lane; RU District. *Correspondence: 1) Abutter Pamela Speir; 2) Abutter Robert JC Murphy; 3) Abutters Kevin and Beth Carr. All not in favor*  
*All correspondence on file in Zoning Board of Appeals office in Town Hall and available to be read*

Correspondence was read, all of which strongly opposed the granting of the permit, primarily due to worries about the extent of commercial use the garage would allow, the clear cutting and general unsightliness of the lot, that large trucks are coming and going to the lot, concerns for impact on land and wells from maintenance of a septic pumping truck on the property, noise issues and activities currently on the property which the Maciels bought in 2004. Mr. Murphy raised private covenant issues regarding the proposed uses on the property and decried that the nearby Fragosa landscaping business in the development far exceeded what is allowable as a home business.

(Brief history: There are 2 garages involved in this issue. The Maciels sought and received a Special Permit in December of '04 to build a *detached* garage with overhead apartment, not built yet, but recently issued a building permit. This summer they sought a building permit for their proposed over 3000 sq ft main house with *attached* garage and overhead office/playroom space, which meant Planning Board review, plus a ZBA hearing as the garage is over 676 sq ft on an under 3 acre lot and the business use of the lot would need a special permit under home service businesses. The house may still need Plan Board Review.)

Eric began by saying he had visited the site: All the trees had been cleared, there are 2 storage containers on the lot, lots of pipe on the lot, it looks like a wasteland. The Maciels agreed it looks bad now, saying they plan to make it beautifully landscaped once the house is built. Abutters present said the lot has looked like this for 2 years. JC Murphy said they have no clear right to build there (a private development/covenant matter). The Maciels said their lawyer has advised them that they do. Eric said the ZBA is concerned with the use on the lot, to not forget it is a residential area. Judy Fisher said she moved to the neighborhood a year ago. There are heavy trucks parked on the roadside, a lot of heavy truck traffic and trucks parked on the Maciel lot. She uses the road at all times of day and night as she is a physician, and the trucks all over the place are upsetting. The Maciels said they have not had large trucks or equipment on their lot, the neighbors may have them confused with trucks of the nearby Bernards.

Laura Maciel said they would never live on the lot as it is now, and showed pictures of their former Vineyard Haven house, which was very well kept and landscaped. As for the large storage containers on the lot, they hold their stuff from the sold Vineyard Haven house. They are planning to put the stuff in the detached garage once it is built. Their employees would not be coming to their lot; rather they go to the job site. Plans were looked at; it was noted garage elevations were not included. Eric said it's a 2000 sq ft garage (in floor area), is the 2<sup>nd</sup> floor a full story? The 2<sup>nd</sup> story would be 800 sq ft, and contain their home and business office and family room.

Nancy asked for clarification of what their business entailed. Excavation, snow plowing, and septic pumping and Dotties Potties. They have 3 employees. Their equipment mainly would reside off-site. When asked, Architect Geoff White said the doors are to be 8" high. Eric asked what kind of equipment could enter at that height? Troy said they were meant to be, have to be, 12' high, not 8'. The garage door on the one-car detached garage is 12' high. Eric said it's a hard sell to be asking for 3 garage spaces with 12' high doors; they're not for ride-on lawnmowers. The Maciels said they wouldn't have all their equipment on the lot, just from December to March as they want to keep the pumper truck and plow truck from freezing up. They have a contract with the state to plow the roads; there's no community barn on the island to store plows.

Beth Carr said she felt she'd been misled, as she'd supported the special permit for the first garage, and now finds out a second one is being proposed. What is the original one to be used for? Troy said, it's got one bay, and one apartment over head; the garage would be for personal use and storage. He added it's getting harder and harder on this Island to try and do anything. Beth said her home is her only investment, she needs to protect it. Troy said it's his understanding that wastewater is not hazardous. Eric said it is a commercial activity. Laura pointed out that the attached garage will be shingled, have gables, look like part of the house; would not be a commercial, steel-like building. Bob Schwier stated he couldn't vote tonight as the elevations were not in the plans.

JC Murphy returned to the subject of Jon Fragosa's landscaping business. He said he has been in contact with the Assessors and the Building Inspector. Assessors tax it as commercial property, while Ernie maintains that doesn't mean it's not a residential property. Mr. Murphy said by assessing a property as commercial, it encourages the owner to think that it can be commercial. Regarding the Maciel's proposed house, Mr. Murphy said they may have to tear it down if built; it may end up in court. He (the developer of Pine Lane) doesn't have an application from them to build. Again the Maciels said they did not believe they had to apply to him.

Nancy said she would vote against the granting of the service business permit, so if ZBA voted against the business, the Maciel's might not want to go ahead with building the garage. She is not unsympathetic to problems small businesses have. Eric thought the commercial storage and maintenance on the lot would be detrimental to the neighborhood. Bob said he'd like to give the Maciels some advice: Build your 1<sup>st</sup> garage and your home and get the lot looking like you want it to, then maybe after that come back to apply for the attached garage. The neighbors may be more supportive if you've shown them how well you've developed the lot and maintained it and are a good neighbor. The Maciels said Ernie told them to put everything they wanted to build in at the same time. ZBA said it is preferred to have everything on the table, and in this case, the upshot is that it doesn't appear that the business and hence, the garage, have the votes to be approved. The best advice would be to withdraw without prejudice. The Maciels decided to ask for this withdrawal. The Board unanimously voted to approve that the application be withdrawn without prejudice.

## **OTHER CORRESPONDENCE**

- Letter from CHAPA re Paquette monitoring agreement

The meeting was adjourned at 9:15 PM.

Respectfully submitted, Julie Keefe, Board Admin.